

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
RENO, NEVADA

STEVE MICHAEL COX,

Plaintiff,

vs.

GLEN WHORTON, et al.,

Defendants.

Case No.: 3:08-cv-00110-RCJ-VPC

STEVE MICHAEL COX,

Plaintiff,

vs.

JAMES BENEDETTI, et al.,

Defendants.

Case No.: 3:08-cv-00502-LRH-VPC

MINUTES OF PROCEEDINGS

November 12, 2010

PROCEEDINGS: STATUS CONFERENCE

PRESENT:

THE HONORABLE VALERIE P. COOKE, U.S. MAGISTRATE JUDGE

Deputy Clerk: Paris Rich FTR: 10:03 am to 10:07 am; 10:44 a.m. to 11:20 a.m.

Pro Se Plaintiff: Steve Michael Cox (Telephonically)

Counsel for Defendants - Case No. 3:08-cv-00110-RCJ-VPC: Robert Simon, NV AG Office

Counsel for Defendants - Case No. 3:08-cv-00502-LRH-VPC: Kelly Werth, NV AG Office

At 10:03 a.m., the Court convenes.

Mr. Simon and Mr. Werth, on behalf of the Defendants, are present in the Courtroom. Lt. Robert Houston and Sgt. Kirchen, of Ely State Prison ("ESP"), are present telephonically. There is no telephonic appearance by Pro Se Plaintiff, Steve Michael Cox.

The Court addresses a newly arisen issue pertaining to a medical order for ambulatory assistance for Pro Se Plaintiff's attendance at scheduled 10:00 a.m. telephonic hearing this date.

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Lt. Houston, on behalf of ESP, presents a statement that there is no medical order on file for ambulatory assistance of Pro Se Plaintiff.

IT IS ORDERED, the appropriate correctional officers from ESP shall provide ambulatory assistance to Pro Se Plaintiff forthwith to accomplish his attendance at the scheduled telephonic hearing this date.

At 10:07 AM, the Court stands at recess pending Pro Se Plaintiff's telephonic appearance.

At 10:44 AM, the Court reconvenes. Pro Se Plaintiff is present telephonically. Mr. Simon, Mr. Werth, and Sgt. Kirchen are all present as previously indicated.

The Court addresses the debate over Pro Se Plaintiff's medical assistance. Pro Se Plaintiff presents statements. Mr. Werth presents statements.

Court recites statements regarding delay of hearing this date, and the Court's previous and personal observation of Pro Se Plaintiff's need for ambulatory assistance.

IT IS ORDERED, Mr. Werth and Mr. Simon are hereby directed to immediately and personally advise Warden McDaniel and Director Skolnik that henceforth, Steve Michael Cox shall be provided any and all ambulatory assistance necessary to ensure Mr. Cox's timely attendance to all his scheduled hearings with this Court. IT IS FURTHER ORDERED, if the issue of ambulatory assistance for Mr. Cox continues to occur, then Mr. Cox shall be transported directly to the Court for any future hearings, rather than proceed telephonically. IT IS FURTHER ORDERED, a copy of this Order shall be served upon Warden McDaniel and Director Skolnik forthwith.

Court proceeds with statements regarding Mr. Cox's possession of legal documents and effect on this Court's matters.

As to Case No. 3:08-cv-00502-LRH-VPC, Court addresses, and recites appreciation, for Mr. Werth's [45] Status Report pertaining to Mr. Cox's recently returned documents. Mr. Werth presents statements in response. Sgt. Kirchen presents statements. Mr. Cox presents statements. Court confirms with Mr. Cox that "Box 5" has been received, however, it is not complete as to Mr. Cox's research notes. Sgt. Kirchen recites further statements, and states he is unaware of any other potential location of Mr. Cox's research notes.

Further, as to Case No. 3:10-cv-00502-LRH-VPC, Mr. Werth presents statements regarding status of discovery currently scheduled to close on Monday, November 22, 2010. Mr. Cox presents statements as to why he has not forwarded discovery to date. Mr. Cox further states that recently, on or about November 8, 2010, he forwarded Interrogatories, Request for Admissions, and Request for Documents to Defendants.

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IT IS ORDERED, as to Case No. 3:10-cv-00502-LRH-VPC, the Discovery Deadline shall be extended to Monday, December 13, 2010. IT IS FURTHER ORDERED, any dispositive motions shall be filed no later than Friday, January 14, 2011. IT IS FURTHER ORDERED, if no dispositive motions are filed, the Proposed Joint Pretrial Order shall be due by Monday, February 14, 2011, or 30 days after any dispositive motion final order.

As to **Case No. 3:08-cv-00110-RCJ-VPC**, and Mr. Cox's Response to [73] Motion for Summary Judgment currently due on November 18, 2010, Mr. Cox recites need for access to Law Library. Court inquires of Sgt. Kirchen regarding Mr. Cox's access to Law Library. Sgt. Kirchen states he does not have any information on this issue.

Further, as to **Case No. 3:08-cv-00110-RCJ-VPC**, the Court and parties further confer regarding [73] Motion for Summary Judgment which will become reportable in March 2011. Mr. Simon recites oral motion for withdrawal (without prejudice) of [73] Motion for Summary Judgment.

IT IS ORDERED, as to Case No. 3:08-cv-00110-RCJ-VPC, Defendants' oral motion for withdrawal of [73] Motion for Summary Judgment, without prejudice, is GRANTED. Defendants shall refile their motion for summary judgment no later than December 13, 2010. Thereafter, IT IS FURTHER ORDERED, Pro Se Plaintiff's response to Defendants' refiled motion for summary judgment shall be due by Tuesday, December 28, 2010.

IT IS FURTHER ORDERED, as to Case No. 3:08-cv-00110-RCJ-VPC, Mr. Simon shall contact the Nevada Department of Corrections and determine any issues regarding Mr. Cox's access to the Law Library. Thereafter, Mr. Simon shall telephonically contact Mr. Cox regarding his needs and attempt to resolve. If no resolution is possible, the Court shall set an expedited hearing on the matter. IT IS FURTHER ORDERED, Mr. Simon shall file a Status Report regarding Mr. Cox's access to the Law Library by Friday, November 19, 2010.

IT IS FURTHER ORDERED, as to Case No. 3:08-cv-00110-RCJ-VPC, Pro Se Plaintiff's [93] Motion to Hold Proceedings in Abeyance is GRANTED IN PART and DENIED IN PART, as fully set forth in the Orders this date.

At 11:20 a.m., the Court adjourns.

LANCE S. WILSON, CLERK

By: /s/ Paris Rich
Deputy Clerk